

REMARKS

Claims 1-19 and 23 are pending.

Claims 1-19 and 23 are rejected.

Claims 20-22 are canceled.

Claim 1 is amended to add a semicolon to the claim and an “and” conjunction, as well.

Claim 3 is amended to add a period.

Claim 12 is amended to add a semicolon

Claim 23 is amended to clarify that the order of metadata is modified from take to take, see FIG 5 and the specification.

No new matter was added in view of these amendments.

Claim Objections

The Examiner objected to Claims 1, 3, and 8 for various informalities. The Applicants have attempted to fix such problems, but the Applicants cannot locate where in Claim 8 a semicolon is required. The Applicants did locate in Claim 12 the need for a semi-colon, and we have made the appropriate correction.

If the Examiner has any further objections to the Claims, the Applicants kindly ask the Examiner indicate where such objections take place in the next paper or by phone.

Rejection of Claims 1-19 and 23 under 35 U.S.C. 112, Second Paragraph

The Examiner rejected Claims 1-19 and 23 under 35 U.S.C. 112, Second Paragraph for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the subject matter.

Specifically, the Examiner takes issue with the term “take number” in the claim.

The Examiner states that such a term either by itself or in view of the specification is incomprehensible. In addition, the Examiner states that in view of the specification and the Applicants prior statements, “[t]he order of the shot in the sequence represents the ‘take number’ basically explains ‘take’ is a shot series, and ‘take number’ is the order of the shot in the sequence. It does not define what shot is therefore ‘take’ and ‘take number’ are vague. Applicants disagree with the Examiner’s conclusions.

The Applicants in view of the Examiner’s objection has attempted to find some outside authority which confirms the Applicants’ definition of “take number” “take” and “shot”. Using a web resource (www.answers.com as a dictionary), the Applicants located the following two definitions of the term “take” within the context of cinematography for one of the ordinary skill in the art:

“3. Individual scene or pose used in the final print of a film, program, or commercial. Every scene is assigned a take number as it is being shot, which is later used to locate the scene for editing or screening. The take number usually agrees with the number of times the scene has been shot before the director feels that it is the way it should be.”

AND

“Film

*In cinematography, a **take** refers to each filmed "version" of a particular shot or "set up". Takes of each shot are generally numbered starting with "take one" and the number of each successive take is increased (with the director calling for "take two" or "take eighteen") until the filming of the shot is completed.*

*A **one-take** occurs when the entire scene is shot satisfactorily the first time, whether by necessity (as with certain expensive special effects) or by happy accident.*

Film takes are often designated with the aid of a clapperboard. It is also referred to as the slate.

The number of each take is written or attached to the clapboard, which is filmed briefly prior to or at the beginning of the actual take. Only takes which are vetted by the continuity person and/or script supervisor are printed and are sent to the film editor.

Outtakes or "outs" are takes or portions of takes that are not in the movie. The vast majority of material (film or digital) shot for a major motion picture doesn't make it into the finished movie. Multiple takes of repeated performances, shot from various

camera angles quickly add up. Shooting over a million feet of film for a movie and using ten thousand feet for the finished product is common.

*Some film directors are known for using very long, unedited takes. Alfred Hitchcock's *Rope* is famous for being composed of nine uninterrupted takes, each from four to ten minutes long. This required actors to step over cables and dolly tracks while filming, and stagehands to move furniture and props out of the camera's way as it moved around the room. A camera operator's foot was broken by a heavy dolly during one intensive take, and he was gagged and hauled out of the studio so that filming could continue without interruption.[1] The eight-minute opening shot of *The Player* includes people discussing long takes in other movies.*

*Aleksandr Sokurov's *Russian Ark* (2002) consists of a single 90-minute take, shot on a digital format. Mike Figgis' *Timecode* (2000) consists of a single 90-minute take as well, albeit with 4 camera units shooting simultaneously. In the finished film, all 4 camera angles are shown simultaneously on a split screen, with the sound fading from one to another to direct audience attention.*

Multiple takes

*Other directors such as Stanley Kubrick are notorious for demanding numerous retakes of a single scene, once asking Shelley Duvall to repeat a scene 127 times for *The Shining*. During the shooting of *Eyes Wide Shut*, Kubrick asked for 97 takes of Tom Cruise walking through a door before he was satisfied. Charlie Chaplin, both director and star of *The Gold Rush*, did 63 separate takes of a scene where his character eats a boot -- in reality, a prop made of licorice -- and ended up being taken to the hospital for insulin shock due to the high sugar intake.[2] Chaplin also did 342 takes of a scene in *City Lights* (1931).” [A COPY OF THIS DEFINITION IS INCLUDED WITH THIS ACTION]*

Regarding the other rejection to Claims 7, 11, and 12, the terms used in these claims should be discernable as well. For example, it should be apparent that the “video asset” corresponds to the take / shot, where each video asset is assigned a take number. Accordingly, the take number is representative of where the “shot” as a take is a sequence of shots pertaining to the same scene.

In view of the totality of the intrinsic and external information provided, Applicants assert that the claim terms are known and are discernable. “Accordingly, a claim term that is not used or defined in the specification is not indefinite if the meaning of the claim term is discernible. *Bancorp Services, L.L.C. v. Hartford Life Ins. Co.*, 359 F.3d 1367, 1372, 69 USPQ2d 1996, 1999-2000 (Fed. Cir. 2004) (holding that the disputed claim term “surrender value protected investment credits” which was not defined or used in the specification was discernible and hence not indefinite because “the components of the term have well recognized meanings, which allow the reader to infer the meaning of the entire phrase with reasonable confidence” (from MPEP 2173.02). That is, the terms “take number”, “take” and “shot” are well known and are pass legal requirements under 35 U.S.C. 112, second paragraph.

Applicants therefore request that the Examiner remove this ground of rejection.

Rejection of Claims 1-19 and 23 under 35 U.S.C. 103(a)

The Examiner rejected Claims 1-19 and 23 under 35 U.S.C. 103(a) as being anticipated by Sull et al. (U.S. Patent Application No. 2004/0128317, hereafter defined as 'Sull'). Applicants disagree with this ground of rejection.

In the rejection, the Examiner does not give the terms "slate", "take number", "take", and "shot" any specific meaning. For example, the drawings which the Examiner refers to in Sull such as FIGS 2A, 2B, 2C are a list of programs, not a slate. Likewise, FIGS 15A-C and 17A-17F of Sull refer to various electronic program guide embodiments of different programs which are broadcasted on different channels (see FIG 17B, for example). Clearly, these do not disclose or suggest the concept of the "slate" with a "take number" as claimed in Claim 1 (see FIG 3 of the present invention for a sample example of a slate).

None of the displayed information of Sull would represent a "take number" in that most (if not all of the information) used in Sull is either from electronic program guide information from a broadcasted television show. Specifically, Sull is for a Digital Video Recorder where information for a recorded program such as the channel it was recorded from, the date the program was recorded, and the title of the program are inputted in a list of times and programs (FIG. 17D of Sull) or an electronic program guide (FIG 17E of Sull). Clearly, none of this information represents a "take number" or the like.

Although the Examiner admits the these concepts (as defined above) are not present in Sull, the Examiner states that one of the ordinary skill in the art could refer to the program list of FIGS. 2A-2D and 6, to assign a number to each recorded program that was recorded off the air. Therefore, if one were to assign a number such as 1, 2, 3, 4, etc. to each respective program, the Examiner argues, it would be possible to anticipate the features of the present invention. Applicants disagree with this conclusion.

Referring to the text Sull, Field 202 of FIGS 2A-2D represents, “information such as title, recording time, duration, and channel of the program,” (paragraph 0137, Sull). Likewise, field 204 represents a, “content characteristic of each program may be a (reduced-size) still image (thumbnail), a plurality of images displayed in the form of an animated image or video stream shown in a small size,” (paragraph 0137, Sull). The Examiner’s therefore modification of Sull would seem to work against the teachings or suggestions of the invention in that one would want descriptive information to distinguish between different recorded shows. The Examiner is suggesting that one of the ordinary skill in the art would ignore all of these fields and simple refer to different television shows by number. The conclusions do not follow from the reference, in that the cited reference invention pertains to listing programming information for different television shows. This has nothing to do with generating slates for a particular video asset using a “take number”.

Claim 23 claims that the watermark used uses “metadata that is shown for a respective take and a time duration metadata is displayed is modified from take to take” whereby the “order” of the metadata changes from take to take. The Sull reference does not show such a variance of what metadata is shown and for how long such metadata will be shown as to produce “watermarked” video where the metadata shown and time where such metadata is shown varies from take to take. That is, Lee only indentifies what a piece of video is by using information (SP 20:37 7 15 15:00 2:00) which is not specifically modified from video to video for the purposes of producing a watermark. That is, the displayed information of Lee is not varied in terms of what is displayed, or for how long such information is displayed, as to produce a watermark as in Claim 23.

For the reasons given above for Claim 1, 12 and 23, Applicants request that the Examiner remove the rejection to these claims. In addition, the Applicants request that

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PU030095

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the Examiner remove the rejection to Claims 1-11 and 13-19, as such claims depend on allowable Claims 1 and 12, as well.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
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August 7, 2009